State, 154 Ind. 655. It is submitted that the statement in the instant case cannot be brought within the Verbal Act doctrine because the transaction to which it referred was completed and unequivocal; nor can it properly be treated as a spontaneous statement, because it appears to have been a deliberate answer to a question after the lapse of considerable time. However, some of the authorities already cited support the decision. For an extensive note on the subject see 42 L. R. A. (n. s.) 198.

FALSE IMPRISONMENT—CONSENT AS A DEFENSE.—Defendants with others went to the house where the plaintiff was staying and forcibly entered. The plaintiff resisted at first, but was induced to go with the defendants, by whom he was taken to the state line. He was there assaulted. In an action for assault and battery and false imprisonment the court instructed the jury that the plaintiff could not recover for anything done prior to the assault, on the theory that the plaintiff had consented to everything done before that time. *Held,* the instruction was erroneous. *Meints* v. *Huntington,* 276 Fed. 245.

The instruction was held to be erroneous not only because based on a conclusion of fact, the determination of which should have been left to the jury, but also because it was an inaccurate statement of the law. It was held to be inaccurate on the theory that consent is no defense to an action for false imprisonment. The only cases cited to sustain this position were cases of assault and battery. As a general rule, in an action for assault and battery, if what is done amounts to a breach of the peace or is forbidden on public grounds, consent is no defense. *Stout* v. *Wren,* 8 N. C. 420; *Shay* v. *Thompson,* 59 Wis. 540; *Morris* v. *Miller,* 20 L. R. A. (n. s.), 907, note. It may, however, be shown in mitigation of damages. *Barholt* v. *Wright,* 45 Ohio St. 177. The theory is that the state is involved and there can be no defense based on a breach of the law. COOLEY ON TORTS (Ed. 2) 188. For a criticism of this rule and the reasons underlying it with respect to cases of mutual combat, see *Galbraith* v. *Fleming,* 60 Mich. 403; *Smith* v. *Simon,* 69 Mich. 481; *Lykins* v. *Hamrick,* 144 Ky. 80. Conceding the soundness of the rule, it is of doubtful application in a case of false imprisonment, since the gist of the action is the detention of the plaintiff without his consent, and there is no legal wrong unless the detention was involuntary in the sense of being contrary to the will of the plaintiff. Consent given before the alleged detention took place was held to be a defense in the following cases: *Moses* v. *Dubois* (S. C.), Dudley 209; *Houston & T. C. R. Co.* v. *Roberson,* 138 S. W. 822; *Ellis* v. *Cleveland,* 54 Vt. 437. The result reached in the principal case is the correct one, but may be more properly based upon a proposition to which all authorities will agree, namely, that a detention sufficient to support an action for false imprisonment may arise despite submission if the circumstances are such as to induce an apprehension that force will be used. There is no obligation to incur the risk of personal violence by resisting until actual violence is used. *Comer* v. *Knowles,* 17 Kan. 436; *Pike* v. *Hanson,* 9 N. H. 491. That the court in the

principal case had in mind a submission to a show of force appears from its consideration of the evidence. To call a submission to a show of force consent is a misuse of terms, and the further statement that consent is no defense to an action of false imprisonment was unnecessary to the decision of the case and is not sustained by the authorities.

INJUNCTION—RIGHT OF ATTORNEY TO CONSULT WITH CLIENT CONFINED IN JAIL.—A client of P, an attorney, was confined in a county jail. Notwithstanding P's repeated efforts to see her, D, the sheriff in charge of the jail, arbitrarily refused to permit P to see or consult with her client. On a petition for an injunction against D, the court *held* that an attorney has the right to be allowed, without undue or arbitrary restraint, to consult with clients confined in a jail, and that an injunction may be granted to enforce the right. *Wilmans* v. *Harston* (Tex., 1921), 234 S. W. 233.

A person confined in jail clearly has the right to consult with his attorney at reasonable times. *State* v. *Davis,* 9 Okla. Cr. Rep. 94; *People* v. *Risely,* 1 N. Y. Cr. Rep. 492; *Hamilton* v. *State,* 68 Tex. Cr. Rep. 419 (involving a statute). But see *Kinloch* v. *Harvey,* 11 S. C. 326. It would seem that an attorney had a reciprocal right to see his client, and it has been so held. *In the Matter of the Sheriff, etc.,* 1 Wheeler Cr. Cas. (N. Y.) 303. The principal case clearly states this right, but the report does not show on what basis the court took jurisdiction to enforce the right by injunction. Assuming the general rule to be that injunctions are only granted when a right of property is involved (but see 29 HARV. L. REV. 640), it would seem, nevertheless, that such a right was clearly present here. "The right of a citizen to pursue any calling, business, or profession he may choose is a property right to be guarded by equity as zealously as any other form of property." *New Method Laundry Co.* v. *MacCann,* 174 Cal. 26. An attorney's right to his clientele and to carry on his profession is one of substance, and a direct violation of that right, like that in the principal case, would obviously result in a certain pecuniary loss to him. Equity may refuse to enjoin an injury to reputation only. *Mead* v. *Stirling,* 62 Conn. 586; *Judson* v. *Zurhorst,* 30 Ohio C. C. 9. But courts of equity have often gone much farther than the principal case in finding a property right on which to base their jurisdiction, as when the publication of private letters is restrained, *Gee* v. *Pritchard,* 2 Swanston's Rep. 402; *Woolsey* v. *Judd,* 4 Duer (N. Y.) 379; or a birth certificate cancelled. *Vanderbilt* v. *Mitchell,* 72 N. J. Eq. 910. See also cases collected in note to *Ex parte Badger,* 14 A. L. R. 286. While the principal case seems to be without direct precedent, it is submitted that the holding is a correct one and is no departure from the established fields of equity jurisdiction.

INJUNCTION—WASTE—BALANCE OF INJURY.—There was a devise of a portion of an estate to the defendant for life, with remainder to the heirs of his body, and if there should be no heirs of his body, remainder to the plaintiff. The defendant joined with his nine children in mortgaging the